

REFUGEE WOMEN AND DOMESTIC VIOLENCE: COUNTRY STUDIES

IRAQI KURDISTAN

A report by

Refugee Women's Resource Project

Asylum Aid

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Explanatory note

This publication is the third edition of the report *Refugee Women and Domestic Violence: Country Studies*, published by RWRP in September 2001 and March 2002. Those reports examined the situation in 7 countries – Albania, Bosnia & Herzegovina, China, Colombia, Democratic Republic of Congo, Iran and Pakistan – and also included an introduction, which outlined the aims and objectives of the report and an overview of the issue of domestic violence in the context of refugee and asylum law.

This is the report on Iraqi Kurdistan only. The full report contains country studies on Iraqi Kurdistan and Kosovo as well as updates on 4 of the 7 previous country reports. Information to update the remaining three could not be accessed in the time available. It is intended that the updates be inserted (as Appendix B or C) after the appropriate initial report.

For ease of reference, sections of the reports which may be particularly useful have been highlighted in bold.

Copies of the first two editions of the report, and the remainder of edition 3, can be obtained from RWRP at the address on the previous page at £10 each. Alternatively, the reports can be downloaded from our website.

Refugee Women's Resource Project
March 2002

IRAQI KURDISTAN

1. Introduction

1.1 Political background

The 5.2 million Kurds in Iraq make up approximately 30 per cent of the population. Of these, approximately 3.5 million live in the Kurdish-controlled area. The Kurdish population as a whole numbers over 31 million people, of whom about 22 million live in the region of Kurdistan that covers parts of Turkey, Iran, Syria, Iraq and the republics of the former Soviet Union, and the Kurdish people are the largest nation in the world without a state.¹

The area presently known as Iraqi Kurdistan² consists of most of the territory of the three northern governorates of Iraq: Duhok, Erbil and Sulaymaniah³. It is currently governed by two separate Kurdish-controlled administrations headed by the Patriotic Union of Kurdistan (PUK) (Sulaymaniah) and the Kurdish Democratic Party (KDP) (Erbil and Duhok). Islamist groups such as IMIK (Islamic Movement of Iraqi Kurdistan) and others retain control in the Halabja area. See section 4.1 for more information on territorial control by various factions.

1.1.1 Events leading to Kurdish control

Kurdish groups' long struggle for independence had resulted in an agreement on autonomy for the region in 1970, extended by another in 1974, which were never fully implemented, although the area was at times designated an 'autonomous region'. During the 1980s, a considerable amount of Northern Iraq became the front line in the war between Iraq and Iran. There was a complete emptying of the population from most of the areas close to the border with Iran. A continuous Kurdish defiance of the Iraqi central government and support to Iran culminated with the genocide known as the "Anfal" operations which took place between 1987 and 1989.⁴

The Anfal was a special operation of genocide bureaucratically engineered from 1987 to 1989 by the Ba'ath Party⁵ against the Kurds of Northern Iraq. Key areas of the Kurdish Autonomous Region were designated as targets of the Anfal. These vast areas comprising Kurdish towns and villages with populations of as many as 70,000 people per town were systematically destroyed by the military

¹ See Nezan, Kendal, 'The Kurds: Current Position and Historical Background' in Kreyenbroek, Philip & Allison, Christine (eds) (1996), *Kurdish Culture and Identity*, London, Zed Books

² Also known as Northern Iraq, Kurdish Autonomous Area (KAA) or Kurdish Autonomous Region (KAR)

³ Note: the various sources quoted in this report use different transcriptions of Kurdish placenames. RWRP has taken spellings as used by US State Department as its model, but no endorsement of any particular spelling is implied

⁴ For more detailed information, see McDowall, David (1996), *A modern history of the Kurds*, London, I. B. Tauris

⁵ Party of Saddam Hussein's government of Iraq

*employing methods such as burning, bulldozing and bombing. The inhabitants were subjected to mass evacuations, deportation, imprisonment, execution ('disappearance') and, in some cases, mass extermination by a combination of conventional and chemical warfare. In the course of the Anfal, an estimated 182,000 Kurds were murdered by the various agencies within the Ba-ath Party's command structure including the security forces, intelligence departments, special commandos, the army, police and chemical weapons units.*⁶

The largest Kurdish uprising took place immediately after the Gulf War in 1991. 95 per cent of Kurdish territory was taken within the first week of the uprising by the *peshmergas* (Kurdish fighters) and the armed Kurdish masses, their weapons seized from captured Iraqi bases. The return of Saddam's army from the Kuwait war zone however meant that cities were retaken by the government and the uprising finally collapsed, with an estimated 1.55 million Kurds fleeing their homes to the mountainous border areas near Iran and Turkey. By late March 1991, almost half of the population had become refugees.

1.1.2 Formation of the 'safe haven'

The response of Western leaders to the plight of the refugees stranded in the mountains led on the 5th April to the UN Security Council passing Resolution 688 which called for the formation of a 'safe haven' in the north of Iraq for the Kurds. The US ordered 3,500 troops into the area to provide humanitarian assistance.

The US, the UK and France then established a "no-fly zone" in the North, originally to protect coalition military operations in the area. France withdrew from northern "no-fly" enforcement at the end of 1996.

The Kurdistan Front, consisting of the various Kurdish political groupings, continued to negotiate with Saddam Hussein over autonomy for several months. However, negotiations broke down in October 1991. Following this,

*"Saddam recalled his men [a few remaining police and soldiers], imposed an embargo on Kurdistan in addition to the UN sanctions⁷, and tried to starve out civil servants and teachers by cutting the payment of wages to the region. At the same time, he reduced petrol supplies to one-quarter of the usual amount. The Kurdish economy suffered an enormous blow, bringing misery on ordinary Kurds"*⁸

In May 1992 elections were held for a parliament for Iraqi Kurdistan, resulting in an equal balance between the two main parties, the KDP and the PUK.

⁶ Laizer, Sheri (1996), *Martyrs, Traitors and Patriots: Kurdistan after the Gulf War*, London, Zed Books, pp 1-2

⁷ Economic sanctions had been imposed by the UN on Iraq's invasion of Kuwait in 1990, and were refined in Resolution 687 on 3/4/91 after Iraq's forced withdrawal (Source: Save the Children UK et al (2002), *Iraq Sanctions: Humanitarian Implications and Options for the Future*, available at <http://www.globalpolicy.org/security/sanction/iraq1/2002/paper.htm>)

⁸ Laizer, Sheri (1996), op. cit. p 46

However, historical conflicts surfaced again and the parties fought from 1994 up until the Washington Agreement on power-sharing (as yet not implemented) was reached in 1998.⁹

This is summarised by the US State Department in its 2002 report:

*The Kurdistan Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK) have controlled most areas in the three northern provinces of Erbil, Duhok, and Sulaymaniah since the Government withdrew its military forces and civilian administrative personnel from the area after the 1991 Kurdish uprising. The KDP and the PUK fought one another from 1994 through 1997. In September 1998, they agreed to unify their separate administrations and to hold new elections in July 1999. The cease-fire has held; however, reunification measures have not been implemented. The PUK held municipal elections in February 2000 and the KDP held municipal elections in May, the first elections held in the Kurdish-controlled areas since 1992.*¹⁰

The Kurdish Regional Government (KRG) operates in the KDP-controlled area only. It describes its structure and role as follows:

The KRG is the authority that rules over much of the liberated area of Iraqi Kurdistan. Its domain includes the provinces of Erbil and Duhok with the city of Erbil as its capital. In its present form, the KRG is comprised of the Cabinet, first formed in September 1996, and the Kurdish Parliament, which was elected in May 1992.

The Cabinet, in addition to the Prime Minister and his deputy, consists of 15 ministries and five ministers without portfolio. It is a broadly-based coalition government, that in addition to the ruling Kurdistan Democratic Party, has members from the Iraqi Communist Party, the Assyrian Movement, the Independent Work Party of Kurdistan, the Islamic Union as well as independents.

The Cabinet, through its ministries and departments, implements programs that provide social services and rebuild the region's infrastructure.

Erbil, the capital, is the seat of both the Parliament and the Council of Ministers. The Kurdish Parliament, popularly elected in May 1992, constitutes the functioning legislative branch of the KRG. The Council of Ministers (a KDP-designated Prime Minister, along with his deputy and the rest of the cabinet) is the executive branch of the KRG. This branch administers the region, implements the laws passed by the Parliament and maintains law and order among the population.

⁹ For more details on the conflicts, see Laizer, Sheri (1996) op. cit.

¹⁰ US Department of State (2002), *Country Reports on Human Rights Practices, 2001: Iraq*, Bureau of Democracy, Human Rights and Labour, available at <http://www.state.gov/g/drl/rls/hrrpt/2001/nea/8257.htm>

*In its fiscal policy, the Council is accountable to the Parliament through the execution of an annual budget. The Council's administration and governing authority extends over the people and territory of the two provinces of Erbil and Duhok with a population of approximately two million.*¹¹

1.1.3 Current developments: Re-unification measures

The KRG reported on its website on 6 August 2002 that an agreement has been reached between the KDP and PUK on a joint Iraqi Kurdistan parliament:

*On Tuesday, August 6, 2002, KDP and PUK politburo members met in Koisinjaq to discuss outstanding issues related to the Washington Agreement. Concerning the Parliament, both parties have agreed that the name "Iraqi Kurdistan National Assembly" will remain the same. The next term for the Parliament to sit will be a transitional. They reaffirmed that the seats for the transitional term will be as follows: 51 seats for KDP, 49 for PUK, and 5 for Assyrians, in accordance with the results of the election in May 1992. A date for the first session has been agreed on but not yet announced, although there is an agreement not to postpone it. KDP and PUK will each open party branch offices in Sulaimaniyah and Erbil respectively. High-level meetings between the parties will continue to work out other details and resolve remaining issues.*¹²

1.1.4 Threat of military intervention in Iraq

Uncertainties over the future of Iraq due to the threat of war have involved the Kurdish administrations in negotiations with the US government and plans for a possible federal state of Iraq.

The Guardian reported in July 2002 that the Kurdish Democratic Party (KDP) has drawn up a draft constitution for a post-Saddam state:

The plan, detailed in a document seen by the Guardian, would divide Iraq into two federal regions - an Arab region covering the centre and south of Iraq, and an Iraqi Kurdistan region to the north. Each region would have its own assembly and president, but Baghdad would maintain control of internal security and a federal army.

The document is being seen as an attempt by opposition forces in Iraq to forge a local solution to the problem of governing the country should the current regime fall or be removed.

...

The constitution's commitment to a "a republican, democratic, parliamentary, pluralistic system" for Iraq also represents a desire to

¹¹ Information from Kurdistan Regional Government website at <http://www.krg.org/about/background.asp>

¹² Kurdistan Regional Government (2002) *Agreement reached on full parliament sitting*, available at http://www.krg.org/news/roundups/aug02/news_aug02.asp

head off any US thoughts about replacing the current dictator in Baghdad with another one.

The draft constitution was drawn up by the Kurdistan Democratic party, led by Massoud Barzani, one of the two main Kurdish groups controlling the self-rule area in northern Iraq.

...

Under the plan, each region would have its own constitution and president, and would establish a parliament, freely elected in a secret ballot.

A federal assembly would sit in Baghdad, where a president, elected for a five-year term (and able to serve a maximum of two terms), would preside over a council of ministers accountable to parliament.

In Baghdad, the federal authorities would have the power to declare war and make peace, decide foreign policy and diplomatic representation, sign international treaties and agreements, set general economic strategy, preside over the country's oil wealth and its nuclear energy programme, and issue federal legislation.

But the regional administration in Kurdistan, which would have the oil-rich city of Kirkuk as its capital, would also have wide-ranging powers at its disposal, including taxation and initiating international relations.

*The most influential anti-Saddam alliance, the KDP, the Patriotic Union of Kurdistan, the Supreme Council for the Islamic Revolution in Iraq (representing the majority Shia community) and the Iraqi National Accord are to discuss the plan when they meet US officials in Europe later this summer.*¹³

1.2 Human rights practice

Although commentators do not criticise human rights practice in Iraqi Kurdistan as strongly as that in the government-controlled areas, some abuses are still reported. Amnesty International's report for 2001 states:

A number of bombs exploded at offices of the UN and international non-governmental organizations in Kurdistan, resulting in considerable material damage. Kurdish officials blamed the Iraqi security services for these bomb attacks.

In September many members of the Islamic Unity Movement in Kurdistan, whose stronghold is the Halabja area, broke away to set up a new Islamist group called Jund al-Islam (Soldiers of Islam). The new group immediately declared a "holy war" against non-Islamist parties and heavy fighting broke out between its members and PUK forces sent to the Halabja area. Dozens were killed on both sides. Armed forces of Jund al-Islam reportedly beheaded and mutilated a number of PUK prisoners in Kheli Hama village. Further fighting gave PUK forces

¹³ Howard, Michael, The Guardian, 10 July 2002, *Dissident blueprint gathers support*, available at <http://www.guardian.co.uk/Iraq/Story/0,2763,752574,00.html>

control of Halabja and drove Jund al-Islam fighters into the mountains near the Iran-Iraq border.

The PUK issued a general amnesty in October for members of Jund al-Islam, urging them to return under the authority of the regional government. The amnesty did not include those responsible for the assassination of Faranso Hariri (see below) and the massacre at Kheli Hama village.¹⁴

In the same report, Amnesty also mentions several politically motivated arrests in both PUK and KDP- controlled areas, and an assassination, allegedly by armed Islamists, and two abductions, also by armed Islamist groups.

The US State Department notes:

Iraqi Kurdish regional officials reported in 2000 that prisons in the three northern provinces were open to the International Committee for the Red Cross (ICRC) and other international monitors. According to the ICRC, regular and consistent improvement in conditions was observed on their weekly prison visits to declared prisons. However, both the PUK and the KDP reportedly maintain private, undeclared prisons, and both groups reportedly deny access to ICRC officials. There were reports that authorities of both the PUK and KDP tortured detainees and prisoners.¹⁵

1.3 Iraqi Kurdistan and international legal instruments

As it is not an independent state, Iraqi Kurdistan is unable to ratify international legal instruments.

The Republic of Iraq ratified the Convention on the Elimination of All Forms of Discrimination Against Women in 1986: however, it entered reservations on various articles, with reference to *Shari'a* (Islamic law), namely Article 2 on the abolition of existing laws which discriminate against women, Article 9 on equal rights to nationality, Article 15 on the equality of men and women before the law and Article 16 on equal rights in marriage and family relations.¹⁶

Iraq has also ratified the International Covenant on Economic, Social and Cultural Rights (CESCR), the International Covenant on Civil and Political Rights (CCPR), the International Convention on the Elimination

¹⁴ Amnesty International, *Annual Report 2002, Iraq*, available at <http://web.amnesty.org/web/ar2002.nsf/mde/iraq!Open>

¹⁵ US Department of State (2002), op. cit.

¹⁶ See Connors, Jane, 'The Women's Convention in the Muslim World' in Yamani, Mai (ed.) (1996), *Feminism and Islam: Legal and Literary Perspectives*, London, University of London / Ithaca Press.

of All Forms of Racial Discrimination (CERD), and the Convention on the Rights of the Child (CRC).¹⁷

However, the US State Department notes:

In November the U.N. Commission on Human Rights and the U.N. General Assembly issued a report that noted "with dismay" the lack of improvement in the situation of human rights in Iraq. The report strongly criticized the "systematic, widespread, and extremely grave violations of human rights" and of international humanitarian law by the Government, which it stated resulted in "all-pervasive repression and oppression sustained by broad-based discrimination and widespread terror." The report called on the Government to fulfill its obligations under international human rights treaties.

For the ninth consecutive year, the Commission called on the U.N. Secretary General to send human rights monitors to "help in the independent verification of reports on the human rights situation in Iraq." The U.N. Subcommission on Prevention of Discrimination and Protection of Minorities made a similar request. The Government continued to ignore these requests.

The Government operates an official human rights group that routinely denies allegations of abuses.¹⁸

1.4 Women's human rights

1.4.1 Women's position in Kurdish society

Dr Shahrzad Mojab, Associate Professor in the Department of Adult Education, Community Development, and Counselling Psychology at the Ontario Institute for Studies in Education of the University of Toronto¹⁹, notes:

*My research clearly shows that Kurdish society, in spite of considerable progress toward modernisation, continues to hold onto the traditional, patriarchal relations of domination where **women's rights are regulated by a complex web of cultures, religion, and nationalist practices. These regulations include moral regulations as well as women's rights of divorce, marriage, inheritance, and custody.** Women have been assigned a dual role in this patriarchal nationalist project. **They are both the 'honour' of the nation, representing its cultural and linguistic purity, and the 'shame' of the nation, when***

¹⁷ See Office of the United Nations High Commissioner for Human Rights, *Status of Ratifications of the Principal International Human Rights Treaties*, available at <http://www.unhchr.ch/pdf/report.pdf>

¹⁸ US Department of State (2002), op. cit.

¹⁹ Professor Mojab has written several articles on Kurdish women and is the editor of *Women of A Non-State Nation: The Kurds*, 2001, Mazda Publishers, Costa Mesa, California) and co-editor with Amir Hassanpour of *In Search of Kurdish Women: A Multilingual Bibliography* (forthcoming) Westport, CT.: Greenwood Press.

they deviate from the rules. As such Kurdish women are expected to remain loyal to the nation, her own family, and the family of her husband.

.....
The patriarchal regime in Kurdistan has been experiencing much tension. It is going through a transition period full of conflicts and contradictions. Women feel the brunt of these pressures and tensions. Self-immolation, a very rare practice before the 1970s, is now extensive. Much of it occurs because these women have no hope, no support, and no shelter. The whole world turns against them. Every thing, the husband, the dominant religion (Islam), relatives, culture, language, and law turn the world into unsafe place for women; this is especially true in Iran and Iraq.²⁰

Susan McDonald²¹, in her essay entitled 'Kurdish Women and Self-Determination: A Feminist Approach to International Law', describes the ways in which Kurdish women's struggle for equality has been subsumed by the nationalist agenda both in Iraqi Kurdistan and other Kurdish regions. She notes the "lack of independence of women's organisations" in Iraqi Kurdistan, and continues:

Formal women's organisations do not exist outside the political arena and women for the most part have been excluded from political discussion and decisions. The military and political agenda has co-opted any opportunities for social change. In particular, the Kurdistan Women's Union (Yeketi Afretani Kurdistan) (KWU) is linked to the KDP and the Women's Union of Kurdistan (Yeketi Jinanii Kurdistan) is linked to the PUK.

...
Equality is a fundamental human right and the Kurdish Parliament's refusal to address issues such as polygamy, inheritance, divorce rights, and violence against women is a clear abrogation of their international legal responsibilities.

At the same time, the nationalist movement has created momentum and space for women's liberation as women move beyond their traditional roles. The movement could provide the framework for women to advance their equality within Kurdish society and give them control of their issues.

*Yet the goals of equality are themselves being undermined or subjugated to the goals of autonomy.*²²

²⁰ Mojab, Shahrzad (2002), correspondence

²¹ McDonald is a lawyer working in the area of international law and human rights with a PhD from the University of Toronto.

²² McDonald, Susan, 'Kurdish Women and Self-Determination: A Feminist Approach to International Law' in Mojab, Shahrzad (ed.) (2001) *Women of a Non-State Nation: the Kurds*, Costa Mesa, California, Mazda Publishers, pp 150-151

1.4.2 Violations acknowledged by KRG ministers

The Council of Ministers of the KRG (KDP-controlled area) has recently agreed to forward measures proposed by women's rights activists and others to the National Assembly for consideration, acknowledging the "**gross violations**" of women's human rights currently taking place:

At a Council of Ministers meeting chaired by Prime Minister Nechirvan Barzani, discussion focused on women's issues. "Although we live in the 21st century and our social life here has improved considerably, unfortunately, still a culture of violating basic human rights prevails especially towards women who make up half of the society. Kurdish society, customs and traditions as well as our religion should not be allowed to be used as an excuse to perpetrate gross violations of human rights."

Ministers reviewed some of the practices that require attention:

*Forcing marriages, affecting both sexes but more often women
Exchanging of women between families for marriage purposes,
Promising very young boys and girls to other families for future marriages*

Allowing marriages between much older men and younger women

Honour killing.

Revenge killings or blood feuds

....

The Council decided to endorse proposed legislative changes based on recommendations from a Parliamentary Committee. The proposed legislative changes will be put before the Iraqi Kurdistan National Assembly for a vote.

*The **proposed legislative changes** will safeguard women's rights and prohibit the above-mentioned activities that should have no place in a modern society.²³*

²³ Birayeti Newspaper, August 5, 2002 Council of Ministers Unanimously Agrees to Forward Proposed Legislation Upholding Women's Rights to the Iraqi Kurdistan National Assembly available at http://www.krg.org/news/roundups/aug02/news_aug02.asp

2. Domestic violence

2.1 Abuse of women widespread but under-reported

Domestic violence in all its forms occurs throughout Iraqi Kurdistan, as in all other countries and regions, but there is a lack of information on prevalence.

The US State Department notes in its report for Iraq as a whole:

Domestic violence against women occurs but little is known about its extent. Such abuse customarily is addressed within the tightly knit family structure. There is no public discussion of the subject, and no statistics are published. Spousal violence constitutes grounds for divorce and may be prosecuted; however, suits brought on such charges reportedly are rare.²⁴

Sheri Laizer²⁵ provides the following information gained from her visits to Iraqi Kurdistan, which highlights some attitudes which give rise to domestic violence and the closed nature of society, which makes it very difficult for women to escape the situation:

Between 1991-1998 I worked regularly in Iraqi Kurdistan, mainly filming news and documentary programmes for Western broadcasters. During this period I travelled with all male film crews or else alone, undertaking the assignments on a lone cameraperson basis. My female gender gave me access to Iraqi Kurdish women in a way that the socio-cultural taboos pertaining to their culture prevented the male crew members from enjoying.

I found that generally unmarried and married women were very eager to speak with me about their lives, their expectations and their suffering as I came from the world outside that to which they were confined.

I stayed in the family home of married women living with the groom's father's family and with members of several of these families' extended families, developing in depth relationships as I returned to the area several times each year and would again go to visit those I knew as a mark of respect as also of gratitude for past hospitality and assistance.

The families I stayed with were generally those who were well-educated, politicised pro-Kurdish families with a background of long years of the fathers and grandfathers having struggled for Kurdish rights in Iraq.

Most of the women I spoke with within the age group of 25-50 had received a good education in Iraq. Some worked as doctors, nurses,

²⁴ US Department of State (2002), op. cit.

²⁵ Sheri Laizer is a Middle East specialist, writer and broadcast journalist, with extensive knowledge of Iraqi Kurdistan through visits and research, and author of numerous articles and 4 books on Middle East issues. For more information, see her *Generic Report on Northern Iraq*, details in footnote 41 below

medical outreach workers to the villages, pharmacists, and others as teachers and engineers or after the 1991 uprising in the changed environment, as aid workers.

Again, most of the women, despite their education had been the subject of arranged marriages between their family and the family of the father's brothers. Most were in cousin marriages. In some cases, more than one daughter of family B had married more than one uncle's son of family B. There were also marriages within the maternal line. This made the community extremely tightly knit and provided little chance for a woman not content with her situation to either express her feelings to anyone or to gain support as the family would unite against any discontent woman, labelling her as a troublemaker. She was expected to get on with the task of supporting her mother in law in the household, or if she lived in a house of her own with her husband and children, to administer the domestic affairs of the house, attend to the children and provide for her husband's guests, rarely taking part in social gatherings where men were present unless it was a family gathering, or a public occasion such as an engagement, wedding, party political event or cultural event for the community, such as a concert.

Women confided to me frequently of difficulties between themselves and their husbands. Many had known their husbands throughout their childhoods and, while some gladly accepted an arranged marriage with their cousins, others had perhaps either had the experience of falling in love with a person outside the family and had cherished hopes of someday marrying this person only to find the suitor rejected by their father and male relatives, or had little real understanding of what a marriage actually involved, finding later that the husband was not as he had appeared from the outside.

It is common for relations between men and women betrothed to one another by their families to deteriorate after the courtship period when the marriage has been consummated. If the man in question is conservative and traditional in outlook he may seek to confine the woman's freedom more than she had anticipated before the marriage when he was on his best behaviour in seeking to secure her hand.

Conservative husbands tended to seek to keep their wives physically in the home as much as possible. Some were stopped from going out to work after they were married. There was constant pressure upon such women to bear many sons for the husband. If a woman bore daughter after daughter the husband, and sometimes his mother, would grow harsh towards the woman in question and on occasion encouraged the husband to consider marrying a second wife and bringing her into his home alongside the first wife. Domestic violence was also likely to arise out of such circumstances where the husband was displeased with his wife.

The family and the wider society turned a blind eye to wife beating. Many conservative members of the community justified it as "punishment" or "discipline" and labelled the woman wayward, not sufficiently subservient to her husband's needs and wishes, or treated her as a burden on the household if she showed any sign of complaint with her lot.

Some women with gynaecological difficulties were quickly ostracised and without sympathy if a first child was not born to a newly married couple within the first year, or at best, the first two years. A woman could not choose to say she wished to work or to put off having children. Being married meant having children. Any obstinacy on the woman's part in this regard, or physical difficulties could also lead to her becoming the victim of domestic violence.

Male jealousy played a big part in the problem. Some women liked to continue to see their female friends. Husbands may oppose this on the basis that their wife was in another man's house and would come into contact with other men. He could beat his wife for such an action and accuse her of looking at other men, or worse, of infidelity if there was ever any talk of his wife being seen talking with another man, not her relative and not elderly or a child.

Any murmur of indiscretion or infidelity could quickly accelerate beyond domestic violence into an honour killing. In some cases, even of Iraqi Kurds living in Europe, the rumour of an extra-marital liaison was all it took to give rise to honour killings.

When women spoke together they would often seek to laugh their troubles off, some dismissing the fact that their husbands regularly beat them, reciting various patriarchal proverbs in Kurdish, often those in which a woman was compared to a donkey and the disciplining of the donkey that which should also apply to the woman.

In serious cases, the woman felt trapped and largely helpless. To leave the husband and the home was equivalent to leaving the entire community and becoming an outcast. For this reason, unless a woman felt that her very life was at stake she tended to "bear her lot" until the last possible moment, suffering in silence. Conventions very much forbade that she should complain of ill treatment outside the home or that her children should hear her complain against their father. Sons were encouraged to support their fathers against their mothers and deny their natural sympathies if the mother was "unfit."

The younger generation of women appear outwardly more liberated, particularly those living in Sulaimania, but such freedom is cosmetic rather than inherent. These young women may wear jeans, tight dresses, be very made-up and walk in girl groups on the streets, but they must within their culture go no further than a kiss, a little "light petting", or again, a bad reputation may ensure that no family send

mediators to ask for the girl's hand. There are few unmarried mothers. Pregnant girls are still more likely to commit suicide, given the honour ethic and the notions of shame, than deliver a child out of wedlock.

In Kurdish, the word "girl" fully implies that she is a virgin. The word "woman", the reverse. It is used quite specifically. Thus, an unmarried woman of 30 may still be referred to as a "girl" to show that she is still regarded as "pure" and therefore suitable for marriage. Should such not be proven to be the case after marriage, (except in the West where the Kurdish community has largely become more liberal, more tolerant, and where women have greater opportunity for finding external support), she may be cast out, returned to her male relatives, or killed.²⁶

2.1.1 Women turn to suicide to escape abuse

The Independent Women's Organisation of Kurdistan (IWO) and others have reported extensively on the large numbers of women who have killed themselves, often by self-immolation, after suffering years of abuse within the family. These deaths illustrate the isolation and lack of recourse to any protection experienced by women experiencing abuse. A few of the 59 incidents documented by the IWO from 1991 to 1998 are noted below.

Many women in Iraqi Kurdistan suffer oppressed private lives to an extent that has hardly been recognised. A growing wave of tragic suicides has brought this issue to the front of the organisations conscious. In one month in 1997 there were six reported cases of suicides by women in towns in Iraqi Kurdistan. These deaths, generally 'burnings', were acts of self-immolation and the last means of protest and escape for many trapped and severely abused women.

Bahra Abdulkarim Barzingi was from the Islahi district of Sulaymaniya. In 1997 she attended seminars run by the Independent Organisation of Women against the wishes of her family. Bahra was a high school student, greatly praised by her teachers for her character and intelligence. Bahra had four sisters and four brothers. When her sisters were beaten, by her brothers and parents, Bahra would protest. She challenged the violence within her family and struggled for her rights, such as freedom of expression. She refused an arranged marriage to her cousin. Her outspoken independence caused her to be beaten and abused by her parents on a daily basis. On March 4th 1998, Bahra had an altercation with her father, which led to a beating. On the same day she set alight to herself. Bahra was eighteen when she died five days later in hospital. While critically ill in hospital she said she burned herself to be free of her family. Though she was told she would go to hell for saying such things, she insisted on speaking the truth.

...

125. On 21st January 1994 in the town of Kushtapa near Erbil a woman named Fawziya Mala Bakr committed suicide with a

²⁶ Laizer, Sheri, 23 September 2002, correspondence

Kalashnikov because the husband whom she had been forced to marry was abusive to her.

..
132. *On the 27th March 1995 in Ranya City a thirty-eight year old woman named Gula Kadir burned herself. She had been married for twelve years and did not bear children so her husband abused her everyday.*

..
138. *At the beginning of March 1995 in Mansouria camp in Dahok City a woman burned herself because her husband was abusive.*

139. *On the 13th June 1995 in the Mamostayan district of Sulaymaniya a woman named Rezan Jalal burned herself because of the abuse she got from her brother in-law and his wife who lived in the same house. She died after a few days.*

140. *On the 22nd August 1995 a woman named Pershing Abdulla Kusraw burned herself because of her abusive husband and died on the same day.*

..
150. *At the end of June 1997 in the Ali Kamal district of Sulaymaniya a thirty-four year old woman named Kanim Haji Ghafour burned herself because her husband and son were very abusive to her.*

..
155. *On the 22nd July 1997 in the Bakhtiyari district of Sulaymaniya a girl named Jwan Hassan burned herself because of bad treatment by her father and brothers. She died after four days.*

156. *On the 15th April 1997 in the Raniya camp a sixteen-year-old girl named Nergis Muhammad burned herself and died after two days. She committed suicide because of abusive relatives.*

157. *In the middle of July 1997 a girl named Shamam burned herself and died after she was beaten and tortured by her brother to the extent that her hands and legs were broken.*

158. *At the end of November 1997 in Sulaymaniya a woman named Rezan burned herself because of abuse by her husband. She had been married to him when she was thirteen years old for 10 thousand Iraqi Dinars.*

...
170. *In the middle of July 1994 in Soran City a woman named Nasrin burned her self. She was a mother of four and her husband beat her if she protested about how hard her work was or his rudeness.*

171. *At the beginning of July in the Diana suburbs a woman named Amina Said shot herself. She was forcibly married and her husband treated her badly. She had asked for a separation, but her husband refused.*

..

175. *In the Mamostayan district, opposite the Sheik Ahmed cemetery in Sulaymaniya a woman named Razaw burned herself and died after three days in hospital. She had been given to a man named Faris when she was seventeen years old. He was very abusive to Razaw and tried to marry a second woman on whom he spent all his money. When Razaw protested about the situation he beat her and broke her arm.*²⁷

2.2 Honour crimes

Activists and commentators pay most attention to the particular form of domestic violence known as 'honour crimes'.

The incidence of honour killings, the most extreme form of honour crimes, is said to have increased since 1991 when Kurdish parties took over the administration of the territory.

Sheri Laizer gives the following background information on the roots and incidence of honour killings in Iraqi Kurdistan:

In traditional Kurdish society, as in other patriarchal societies, the ruling male elite – whether secular or religious – restricts the development of female identity. Women are not encouraged to realise and express their own power and independence. Instead, a woman may be killed for exerting her will, for choosing a man to marry that the family has not selected – or of whom they disapprove – for having a love affair or sexual relationship, for eloping or being discovered in a compromising situation or for joining a political party. Punitive killings are carried out by a woman's father, husband, brothers or other male relatives. There is no trial, simply a death sentence, often brutally carried out.

Since the Kurdish uprising, more than one hundred women in south Kurdistan have been murdered by their fathers or male relatives on such grounds: Nigar Mohammad Haji Bapir was put to death in Raniya on 10 June 1992 by her father for wishing to marry a man of her own choosing. In Arbil, in August of the same year, three women were killed, the first by her father; the second, who was pregnant, was viciously attacked and killed; and the third was killed in Arbil's marketplace. In November of the same year, again in Arbil, at the Kawaskok Camp, another woman was killed by her father.

...

According to Dr Tahire Kocturk²⁸, the strong need to control women can be traced to a phenomenon which is older than Islam, the honour ethic. This is based on the belief that women cannot be trusted to protect their chastity in the best interests of the

²⁷ Independent Women's Organisation of Kurdistan, Iraq (2000), *Catalogue of Horror in Iraqi Kurdistan*, available at Kurdish Media website, http://www.kurdmedia.com/kwahk/r_km_womenshonourkilling.htm

²⁸ Kocturk, Tahire (1992) *A Matter of Honour: Experiences of Turkish Women Immigrants*, London, Zed Books

patriarchal society. The duty is given to the male relatives of the women.²⁹

2.2.1 Prevalence of honour killings and recent political campaigning Conference: Honour Killings in Iraqi Kurdistan, June 2000, London

This conference was organised by Kurdish Women Action Against Honour Killings (KWAHK), its aim being *“an attempt to open up a dialogue between the Kurdish community and their political parties in Kurdistan on the issue of honour killings and the wider question of the position of women in society.”*³⁰

The main recommendations of the conference were as follows:

1. Legal Action

The Kurdish authorities are urged to make serious efforts to change the existing laws to ensure equality between men and women; to punish murderers of women; also to punish those who commit violence against women; the authorities in Kurdistan should also establish a committee to thoroughly investigate all outstanding murder cases that have been classified as honour killings.

2. Preventive Action

This should consist of serious measures to prevent honour killings occurring together with all other kinds of violence and should be achieved through disseminating a culture of democracy and respect for human rights. The Kurdish authorities should seek to use education and the media, all political and civil bodies and organisations, to spread culture and educate people by means of a family educative programme.

3. Protective Action

*There needs to be a serious effort to establish shelters for women at risk of murder, medical and counselling facilities, rehabilitation centres for women victims of violence, along with police protection to ensure the liberty and physical safety of those women who are actively campaigning against honour killings and the traditional culture.*³¹

Dr Nazand Begikhani, of the Kurdish Cultural Centre Gender Group, gave some background to the recent campaigning:

She [Dr Begikhani] stated that according to field researches carried out by women activists in Iraqi Kurdistan, more than 4,000 women have been killed since 1991. That means honour killing is a daily occurrence in Kurdistan. The phenomenon of honour killing has always existed in Kurdistan as in many other traditional patriarchal societies, but since 1991, its practice has increased. This is a tragic reality for the Kurds not only because of the increasing of the phenomenon, but because since 1991, this part of Kurdistan is under the control of the Kurds

²⁹ Laizer, Sheri (1996), op. cit., pp 161-162

³⁰ Morgan, David (2000), *Honour Killings in Iraqi Kurdistan: Seminar Report*, available at <http://www.kurdmedia.com/reports.asp?id=9>

³¹ Morgan, David (2000), op. cit.

themselves. The practice emerged soon after the uprising of spring 1991 when men from Kurdish political parties started, in the name of national cause, killing those women suspected of collaboration with Baathist agents.

*Honour killing has many political, social, religious and economic dimensions. The activities of political Islam in this part of Kurdistan might be seen as a major factor behind this practice. The failure of both the PUK and KDP in dealing with the issue of importance and their dogmatic and ambivalent politics towards the Islamic groups, created a convenient opportunity for the latter to emerge as an alternative. Preoccupied by their internal conflicts and enforcement of their militia forces, the KDP and PUK did not develop any real programme to address the social and economic decay caused by 30 years of Baathist violence. **Together with the increase in violence against women, women have mobilised both in Kurdistan and in the diaspora. Defending women's liberation and the victims of honour crimes has put the life of many women at risk; women activists themselves run the risk of being killed and accused of dishonouring their family.***

.....

In 1992 there had been a petition signed by 30,000 women seeking changes in articles in the Civil and Penal Codes. Unfortunately, this appeal was ignored and since then the violations have worsened. In the face of the rising number of honour killing incidents neither the PUK nor the KDP made any serious attempts to halt the killings. The Kurdish women are dissatisfied by the way the Kurdish parties have, after 75 years of fighting against Iraqi rule for Kurdish rights, remained ready to apply the same Iraqi laws when they have a golden opportunity to establish new civil laws. It was only on the 12th April this year that PUK announced some changes in the law making it a capital offence in the Suleimanya region which the party administers.³²

2.2.2 Attitude of the PUK

Dr Fuad Masum, member of the political bureau of the PUK, informed the audience of his party's views on the issue:

He maintained that there were many examples of unjust treatment in society, that between rich and poor, men and women, the strong and the weak, and that the root cause was economic. He believed that women would remain second-class citizens as long as men remained responsible for the economic activities of the country. Traditionally, women were held to be lower down the social scale than men; for example, whenever a women was described in Iraq it was the norm to talk about her as "mother of....", thus she is not regarded as a full individual in her own right.

...

³² Morgan, David (2000), op. cit.

Although he regarded the law as an important factor, Dr Masum believed, however, that not every aspect of the family law needed to be overturned simply because the Ba'ath Party had implemented it and the phenomenon of honour killings would not be solved simply by changing the law; wider social and cultural questions were involved. Like its neighbouring countries, the society in Kurdistan did not value men and women equally; all family honour and shame rested on the women.

....

He then outlined the reasons for the changes in the law made by the PUK administration in Suleimaniya that had been introduced as recently as this April: it was a response to the increase in honour killings. He thought that the traditional honour reason which in certain respects was socially acceptable was now more often used as an excuse. The social context for the increase was the growing economic independence of women and the widespread disruption to the social system caused by war and upheaval.³³

2.2.3 Attitude of the KDP

The KDP representative, Hoshyar Zebari, Director, International Relations Bureau of the KDP was asked why his party in Erbil had not made changes in the law similar to those made in Sulaymaniah and what was his party's policy towards the phenomenon.

Mr Zebari maintained that the issue should not be regarded as one of competition between the two parties. The main challenge was to change attitudes and the tribal mentality that was strong in Kurdistan. He did not deny that honour killings existed but wanted to qualify the statistics and information cited so far by the campaign. He suggested that the figure of 4,000 killings was an exaggeration and should be revised. He thought that the campaign would be more successful if it made more contacts with women's organisations in Kurdistan. A political campaign would only lose public support. It was necessary to broaden the scope of the campaign to include all sectors of society, Kurdish social organisations and families should all contribute towards resolving the issue. He went on to point out that honour killings were not just a problem for Kurdish society, but existed in Arabic and other Islamic countries.

He thought that law was not therefore the main issue at stake. The roots of the problem lay in the time before a case came to court, due to bribes and interference in the legal process. The social conditions meant that the criminals themselves were victims of custom and pressures of the society because they were coerced into carrying out the crime to restore family honour. Many killings were put down to accidents with no reasons established as to why they had been killed. He stated that the KDP was strongly against this violation of human rights. He said that the problem involved political, legal, human rights,

³³ Morgan, David (2000), op. cit.

social and Islamic factors; but even under Islamic law people did not have the right to take the law into their own hands and kill.

In answer to the question as to why the KDP had not yet changed the law, he said that the party believed that the law must be changed via Parliament. The party still considered itself operating in part of Iraq; Kurdistan had international protection, but not its own constitution and law. He said that the KDP had a legal committee examining the laws that should be revised and that they believed there was a need for far-reaching changes that would effect every family. However, the most important factor was to raise awareness and educate the people through schools, the media and other social organisations. He said that the women's campaign in Kurdistan was very active. There had been seminars and petitions to put pressure on the parties to apply equality, but he did not wish to respond directly to any of Dr Masum's comments.

He reiterated that the KDP was in sympathy with the women's groups and wanted to see change, but advised that in his party's view the most important factor for achieving success would be through developing contact with internal groups in Kurdistan. This would strengthen the campaign, whereas directing the campaign outside would not have the desired effect and influence.³⁴

It appears that the KDP is perhaps now bowing to pressure from women's groups to take the issue of honour crimes, amongst other violations of women's rights, more seriously (see Section 1.4). However in our view a strong conservative thread runs through the response detailed above.

2.2.4 Honour killings occurring outside Iraqi Kurdistan

The pervasiveness of attitudes to women as repositories of family honour is shown by the fact that women whose families have settled outside Kurdistan have also been victims of honour crimes. In a high-profile case, a young Kurdish-Swedish woman, Fadime Sahindal, studying in one of the universities in Sweden, was shot dead by her father, who confessed to the killing, claiming that she had shamed the family by rejecting arranged marriage, and for choosing her partner. She had also "shamed" the family in 1998 for a highly publicized court case against her father and brother who had threatened to kill her.³⁵

³⁴ Morgan, David (2000), op. cit.

³⁵ For more information, see Kurdish Media's report at http://www.kurdmedia.com/kwahk/news_fadime.htm

3. Domestic violence and the law

3.1 The legal system

Both the PUK- and the KDP-controlled local administrations maintain separate judicial systems, but continue to use the Iraqi legal codes³⁶, which operate as follows:

The legal system in Iraq can be considered a mixed system and is based on a combination of Shi'a and Sunni legal principals. The main sources of Iraqi law can be grouped into three categories: Islamic law, constitutional law, and legislation and statutory law. In addition, the Iraqi legal system utilizes some secondary sources such as usage, custom, and judicial precedents.

...

The Civil Code, first promulgated in Law No. 40 of 1951, was expressed in amended form in Law No. 36 of 1983. The Code of Civil Procedure first appeared in Law No. 89 of 1969 and was amended by Law No. 107 of 1979. Law No. 30 of 1984 articulates the principal Commercial Code, and the Criminal Code is contained in law No. 111 of 1969.³⁷

The law of Personal Status, Law No. 188/1959, based on the Shari'a (Islamic Law) covers matters relating to the personal status of Muslims such as family, marriage, divorce and inheritance.³⁸ Some changes were apparently made to laws on marriage and divorce by the Kurdistan National Assembly (KDP area) in June – August 2001³⁹, however no detailed information is available at present.

3.2 The law relating to honour crimes

Honour crimes are dealt with in Articles 130, 132, 405 and 406 of the Criminal (Penal) Code Law no. 111.

The PUK amended articles 130 and 132 in April 2000 after pressure from women's groups. However, Articles 405 and 406 are still in force, as noted below.

Dr Nouri Talabany, a legal expert and head of the Kurdish Human Rights Organisation, gave the following background to these articles and the amendments in August 2000:

Articles 130 and 132 of the present-day Iraqi Penal Code, which is still enforceable in Kurdistan, still state that the penalty for killing a woman

³⁶ US Department of State (2002), op. cit.

³⁷ United Nations Portal On Governance in the Arab Region (POGAR), *Iraq: Judiciary*, available at <http://www.pogar.org/countries/iraq/judiciary.html>

³⁸ General Federation of Iraqi Women, *Personal Status Law*, Government of Iraq official site, http://www.uruklink.net/women/ew2_3.htm

³⁹ See Kurdistan Regional Government – UK Representation: <http://members.aol.com/krgsite/kurdreport1.html#Legislative%20Amendments%20for%20Women%20and%20Children>

*should be reduced if the crime was committed for reasons of honour. In April, 2000, the PUK dominated Kurdish government in Sulaimania took a decision to abolish this distinction, which meant that, in future, no man would be given a reduced sentence for killing a woman; it would be assumed that he had committed this crime of his own volition, and that there were no mitigating circumstances. **But the courts remain obliged to enforce Articles 405 and 406 of the Iraqi Penal Code which lay down the penalty for a husband who kills his wife if he finds her in an adulterous situation.** There are, however, three conditions which must be met. Firstly, the killer must be the husband or a close relative of his; secondly, the wife must be witnessed in the act of adultery; thirdly, he must attempt to kill one, or both of them immediately. There must be no interval between the discovery of the adultery and the killing. In specifying the husband or a close relative of his, Iraqi law clearly discriminates against women as **a wife who finds her husband in a similar, adulterous situation and attempts to kill him, does not receive a reduced penalty.** This can be compared with French law, where both the husband and the wife would benefit from a reduction in their penalty.⁴⁰*

See also sections 4.1 and 2.2 of this report for more information.

3.3 The law relating to other offences of domestic violence

There is no information available to date on laws relating to non-honour-related crimes of domestic violence. One can presume that physical assaults could in theory be prosecuted under general laws on assault in the Criminal Code.

Rape is illegal under the Criminal Code.⁴¹ No information is available on the legality or otherwise of rape within marriage.

The Kurdistan Regional Government reportedly agreed to pass various proposals on laws relating to women's rights, including marriage, to the National Assembly for consideration in August 2002, but exact details are not available (see Section 1.4). Domestic violence was not mentioned in the report.

⁴⁰ Talbany, Dr Nouri (2000), *Honour Killing in Iraqi Kurdistan*, available at http://www.kurdmedia.com/kwahk/r_Nouritalabany.htm

⁴¹ Country Information and Policy Unit (2002) *Country Assessment: Iraq*, Section 5B: Human Rights: Specific Groups: Women, Home Office, available at <http://www.ind.homeoffice.gov.uk/default.asp?PagelId=179>

4. The reality of seeking protection

4.1 The police and general security issues

It has been noted that domestic violence is seen as a private matter and one to be resolved within the family.⁴² However if a woman were to approach the police for help, this would not be straightforward. The extracts below, from an in-depth 2002 report by Sheri Laizer on the current situation in Iraqi Kurdistan, demonstrate clearly how the individual's position in the social structure and the general lack of security and level of abuses combine to produce a lack of police protection. In particular this evidence dispels any assumptions about what is meant by "policing".

9. Social welfare, policing, security

i. Since 1989 I have travelled back and forth to northern Iraq observing, filming, interviewing and living amongst various Iraqi Kurdish families across northern Iraq. Some of these families were pro-Barzani and pro-KDP; others were pro-PUK, or supported the PUK's old foe, the Iraqi Communist Party. At the end of the day it would be quite right to say that loyalty to the family or the clan outweighs the sense of commitment to party ideology. Fidelity to a religious figurehead, the shaikh or agha as head of the tribe/clan, and governor therefore of people's hearts and minds is paramount in determining social relations. This social structure still affects every aspect of life in Iraqi Kurdistan today - friendships, marriage, business relations, political affiliations - it is loyalty in its most profound sense and the sense of identity it imparts is indistinguishable from one's sense of "belonging".

ii. The individual's position within the social structure stems from his family name and "honour" and affects his political standing. There is no social-welfare system separate from this system and the specific form of party politics it has given rise to. This in turn affects an individual's social and political potential and his or her security. No man or woman can "go it alone" as people can in the West. Cousin marriages remain common for the same reason of keeping power and security within the family. The community remains closely knit, turned in upon itself and at the same time retaining deep schisms between the different clans and modern-day factions into which the population divides.

iii. Because "policing" is a task accorded to functionaries of the party by each of the political parties respectively - and in some ways the role of policeman is an adaptation of the role of the peshmerga - there is no single "nationwide" police-force and no policing body independent of the parties. This means that the "police" carry the bias of their party into their function of

⁴² See US Department of State (2002), op. cit.

“policing” and it is this fundamental factor which leads to the abuses of individual rights, freedoms and the erosion of security of life. The “police” are not educated to the standards necessary for enforcement of law but resort to the methods of their predecessors in the Ba’ath Party - beating, torture, bribes, threats, wrongful detention and even execution. Ordinary people are afraid of falling into the hands of the “police”. Only those secure within the political parties would seek the “protection” of the party police - and this may also be sought in individual quarrels with rivals where the assistance of the police may be enlisted to coerce the opponent into submission. These forces are not therefore able to provide protection.

10. “Control” over parts of the territory by the various factions

i. “Control” over various parts of northern Iraq is maintained by the respective factions - the KDP, PUK, IMIK/IUM, and to a lesser extent the PKK - and this varies according to the fragile understandings reached between them on which basis they attempt to establish stability in the short term. There are no lasting guarantees beyond the short term peace between them and this by and large is maintained on a daily basis by the rule of the gun and the unreliable backing of the neighbouring powers and policies applied by the West.

ii. Deep gulfs exist between these groups, as I have attempted to describe, and these fall into religious, social and ideological divides. Because of this, a person who has serious problems - for example with the former IUM (former IMIK) - he or she could not expect to find safe harbour with the IUM’s rivals. Firstly, their personal or family conflict may serve to further exacerbate tensions between the factions and secondly, there is not a system in place capable of guaranteeing any individual security of life unless that individual has a powerful clan, party or movement behind him, or is wealthy enough to afford his own protection such as those like “Human Rights TV” station owner, Daoud Baghistani, in Dohuk.

iii. Individuals, and particularly the unaligned, the weak and the poor cannot get adequate protection from these fledgling “authorities”. There is no practical way to enforce it. The system in northern Iraq has not matured to such a level of social development or political “control” for this to be possible. The Kurdish Administration has not been equipped in such a way and most international efforts focused on the region have been with the aim of securing Kurdish co-operation with Allied policy towards Saddam Hussein, in seeking to prevent the KDP and PUK from further escalating the conflict between them, preventing internecine bloodshed

*and hence also further mass exodus of internally displaced persons and refugees.*⁴³

This report also illustrates the fact that control by a particular faction in an area cannot be assured in the long term.

Sawsan Salim of the Independent Women's Organisation of Kurdistan notes:

*When a woman goes to the police to complain of violence or threats, she is usually ignored or even blamed by the police for not respecting her husband or family. Such cases have been documented in The Woman Aid magazine. If a man complained to the police about a physical assault, action would be taken under the law.*⁴⁴

4.2 The judicial and legal system

4.2.1 Changes to the law on honour killings not put into practice

It appears that the amendment of Articles 130 and 132 on honour killings mentioned above has not yet affected any cases in practice. An article on honour killing by Shahrzad Mojab and Amir Hassanpour published in February 2002 states:

In dealing with the increasing incidence of honour killing, they [the two Kurdish administrations] adopted Iraqi law which did not criminalize honour killing, and was lenient on the punishment of killers. Faced with opposition from women, the two parties, especially KDP, have tried to justify honour killing as a Kurdish and Islamic tradition. In 2000, the Patriotic Union of Kurdistan issued two resolutions aimed at revoking Iraqi law, and criminalizing honour killing. The resolutions, which have the status of law in the absence of a legislative organ, have remained on paper in so far as the government has neither the will nor the power to enforce them.

If the KDP government has persistently ignored the demand for gender equality and for the criminalization of honour killing and the PUK government paid only lip service to them, they have both bowed to the demands of a handful of mullahs and their Iranian overlords. Kurdish mullahs, who never aspired to theocratic governance, now demand the Islamization of gender relations, and the subordination of Kurdish women according to the dictates of Islam. Financed and organized by the Iranian theocracy, some Kurdish Islamic groups aim at establishing a theocracy. Not surprising at all, Kurdish leaders who were secular before 1979, entertain Islam and Islamists.⁴⁵

⁴³ Laizer, Sheri (2002), *Generic Report on Northern Iraq (updated January 2002)*, full report available from RWRP or Refugee Legal Centre External Information Service, tel. 020 7780 3288

⁴⁴ Salim, Sawsan, Independent Women's Organisation (2002), interview with RWRP. Email for further information: Sawsan.s@ukonline.co.uk

⁴⁵ Mojab, Shahrzad and Hassanpour, Amir (2002), *In Memory of Fadime Sahindal*

A report by UNHCR/ACCORD from 2000 also notes on the issue of enforcing PUK's changes in the law on honour killings:

*The question is whether Kurdish society will accept such a change in the law as it has been initiated by the PUK. If one passes a law which is not implementable, one loses the support of the people. The ruling parties in Northern Iraq cannot afford to lose the support of the local population as their future remains uncertain at least.*⁴⁶

4.3 Other support services

There are a small number of women's NGOs trying to protect women. The Independent Women's Organisation (IWO) was set up in 1992. **It set up a shelter in Sulaymaniah for women in danger of honour killing in 1998. The shelter was closed down by the PUK in 2000 (see below) and has not re-opened.** Currently only two shelters exist, both in Sulaymaniah, and they can only accommodate a few women at a time. The IWO also protect a few women in safe houses in different areas of the country.

Mojab and Hassanpour state:

*The two Kurdish governments have opened more mosques than women's shelters. In fact, they have not initiated any women's shelters. Even worse, the PUK government launched an armed attack on a women's shelter operated by an opposition political party (the shelter operated by the Independent Women's Organization in Sulemani).*⁴⁷

The US State Department report also reports the attack on the shelter:

*In July 2000, the PUK reportedly ordered all opposition groups to move their offices out of Sulaymaniah's city center following a number of bombings; the IWCP⁴⁸ reportedly refused to move. PUK security forces subsequently killed at least six IWCP members and arrested several others at an IWCP office in Sulaymaniah. PUK forces also killed several IWCP members who were inside a car. **In connection with this dispute, the PUK closed the IWCP-affiliated Independent Women's Organization and the Women's Protection Center in July 2000 and detained temporarily 12 women who had been staying at an abused women's shelter within the Center. The PUK announced that it would investigate the security forces' actions; however, no information was available by year's end.***⁴⁹

Thoughts on the Struggle Against "Honour Killing", available at http://www.kurdmedia.com/kwahk/fadime_hassanpur.htm

⁴⁶ UNHCR/ACCORD (2000), 6th European Country of Origin Information Seminar, Vienna, 13-14 November 2000 – Final report

⁴⁷ Mojab, Shahrzad and Hassanpour, Amir (2002), op. cit.

⁴⁸ Iraqi Worker's Communist Party

⁴⁹ US Department of State (2002), op. cit.

The following is from an interview by RWRP with Sawsan Salim, Representative in Britain of the IWO, Kurdistan, held on 6 August 2002. This information illustrates not only the dangers facing women from family members but also the unwillingness of the state to provide protection, and in fact its collusion in the abuse in many cases.

Attitudes to violence against women

Domestic violence consisting of physical, mental and sexual abuse of a woman by her husband does occur. For example, a case published in Yaksani⁵⁰ described a woman who was killed by her husband because her children had eaten some tomatoes he had brought home in the time of sanctions and hunger.

The attitude of the state and society to crimes of honour i.e. that violence against and murder of women are condoned, means that other forms of violence against women are also tolerated. The law, religion and the state give rights to a woman's father, brother or husband to do anything he wants to her.

Over 5000 women were killed or pressurised to commit suicide for reasons of honour in 1991 – 2001 and no prosecutions have occurred for any of these crimes.

Personal Status Law

IWO presented their alternative to the Personal Status Law to the PUK in 1999. Although the PUK did amend an article relating to honour killing in April 2000, they accused the IWO of asking for complete equality for women, which was contrary to culture and religion. IWO also presented their alternative Personal Status Law to the KDP in February 2001. No response was received.

Cases of women helped by the IWO

Mohabad Abdullah was killed by a significant man in the PUK after she refused to marry him. He kidnapped, abused and killed her in 1998. Two years later he kidnapped and abused two of her sisters and killed one of them. The IWO took up Mohabad's case and the case was brought to court. The court found 9 pieces of evidence against the killer, however he was released without a conviction.

B.S. was raped at the age of 14 by the brother of her stepmother. Suffering pain when at school, she went to the hospital where a doctor found out she was pregnant. He recommended an abortion and notified her family, who planned to kill her for bringing shame upon the family. The doctor called on the IWO to protect the woman after her abortion. She was sent to a youth offenders' institution for 3 months. The IWO housed her in a shelter when she left the institution, but do not know where she is now.

⁵⁰ Newsletter of Independent Women's Organisation, published in Kurdish

Parwin, a woman who had been mentally and emotionally abused by her husband, who collaborated with her father in her ill treatment so that she had nowhere to turn, eventually killed him in 1999. She was prosecuted under Article 409 which carries the death sentence.

Roonak Hamar Sharif married against the wishes of her husband's family. She worked outside the home and they disapproved. The husband's family wanted her to divorce him, but she refused. They then killed her husband. Roonak stayed in hiding for a year, then remarried. The first husband's family accused her and her second husband of murdering the first husband. The couple went to the police for help, but the court sent them both to prison for 3 months. The family killed the second husband in front of the court; Roonak escaped. She went to the police for help but they refused, saying it was a family problem. She went into hiding and the IWO placed her in a shelter.

L.K. was a married woman whose husband worked abroad. She had an affair with another man. Her husband's family threatened to kill her and took her to the police. She was sentenced to a year's imprisonment for adultery, from March 1997 to March 1998. When she was released IWO took her to a refuge for protection.

Kazhal Kheder was a 26-year-old woman from the Ranieh district who was accused of adultery by her male relatives. The family reported her to the mullah and she was sentenced to execution; however as she was pregnant, her sentence was delayed until the birth of her baby. Not wanting to wait, her family cut off her nose as a punishment and she was taken to hospital. The IWO helped her leave hospital and escape to Syria and eventually to Canada. IWO is aware of two more women from the same district whose noses were cut off by their families as punishment.

IWO and its services

IWO is funded by donations from people in Kurdistan through its Campaign to Defend the Rights of Women in Kurdistan and is also supported by the Iraqi Workers' Communist Party of Kurdistan. It does not receive any government support.

IWO's shelter in Suleymania was closed by the PUK on 14 July 2000 and has not reopened. Since then they have continued to support women whose lives are in danger by accommodating them in various safe houses in different areas of Kurdistan, including in Erbil, part of the KDP-controlled area. In 1999-2000 they supported 397 women. They documented 107 suicides, 9 cases of rape, 76 of threats, 7 of mutilation, 19 murders and 12 attempted murders. One month after the shelter was closed down, Nasreen Aziz was killed by her brother, who commented that now there was no shelter no one would come after him.

IWO operated a 24-hour telephone helpline until their shelter was shut down in 2000. Some women are helped by advice only, perhaps including liaising with other family members to get support for the woman, if her life is not in danger. If death threats have been made, IWO will accommodate the woman for as long as necessary in a safe house and try to work with solicitors to resolve the case. Some women have stayed as long as four years.

Other shelters

Noah Centre, Suleymania

This is run by Medico, a German-funded organisation. It houses women fleeing violence who are suffering mental health problems. The government have put pressure on the organisation to be taken over by the local hospital, but the management committee wish to remain independent.

Aram Shelter, Suleymania

This is run by the Kurdistan Women's Union, who are linked with the PUK. Although IWO supports the aims of the shelter to protect women, it feels that its methods, through its linkage with the government, are not helpful to women.⁵¹

Aram Shelter

The Aram shelter in Sulaymaniah was set up in 1998 by the Committee of the Kurdish Disaster Fund in London, with the support of the UK's Department for International Development (DfID) and the Women's Union of Kurdistan (linked to the PUK), in order to protect women in danger of honour killings. Its aims are to provide temporary shelter, legal advice, counselling and support services and to lobby for changes in law and society for abused women. Only women whose lives are in danger can be admitted to the shelter, which can only accommodate 20 women at one time. Others are helped on the same day and may be able to return to their families after negotiations. 12 armed female guards provide security. The shelter provides financial support for court costs and a solicitor represents women in court, as in Iraqi Kurdistan legal aid is not available for civil cases. The solicitor also mediates with family members and tribal leaders. The staff at the shelter have been subjected to verbal abuse.

95% of the 61 women referred up to February 2002 were fleeing from forced marriages. The women had been abused by husbands, brothers, parents and parents-in-law. 45% were fleeing from attempted murder and 30% from death threats. Most women suffered depression and other psychological problems due to the trauma they had experienced. Some women accommodated at the shelter have obtained a divorce and been able to marry a person of their choice. Others have got their independently chosen marriages legally recognised. The families of other women have signed legally binding contracts guaranteeing their safety. Two women, however, one with two

⁵¹ Salim, Sawsan, Independent Women's Organisation (2002), interview with RWRP, op. cit.

children, remain in the shelter under sentence of death by family members. Their only hope is to be able to leave the country.⁵²

⁵² Information summarised from Rashid, Nazaneen (2002), *The Aram Shelter for Women in Sulaimaniya: A Sociological Analysis of Shelter in the Kurdish Context*, paper presented at the Conference on Women, Violence and the Politics of Mobilising Resistance: The Case of Kurdish Women organised by International Kurdish Women Studies Network, Kurdish Women Action Against Honour Killing and Institute Kurde de Paris, February 2002

5. The situation of separated or divorced women

5.1 Marriage and the consequences of divorce

Dr Shahrzad Mojab describes the following cultural traditions:

In marriage as in other areas, Kurdish society is not homogeneous; there are rural-urban differences, social class differences, and regional, religious and linguistic diversity. Despite the diversity, one can claim that certain traditions and cultural practices remain the same. Marriage and divorce are among such practices. Pre-arranged marriages continue to be practiced in both urban and rural areas. Elders in the family negotiate the terms of marriage contract. Certain specifications for men such as wealth, family reputation, education, and more recently, living abroad are highly favored by the woman's family.

*An important feature of marriage in a traditional society such as Kurdistan is its permanency. There is a saying that women enter their husband's house in a white gown and leave in the white shroud. This testifies to the permanency and sanctity of the marriage institution. Once there is a request for a 'girl's hand' by a family, the name of that family remains on the woman and no one else will ask for her hand. As soon as the marriage contract is agreed upon by both parties, abrogating it is socially unacceptable. As the process of confirming the marriage contract makes progress, through elaborated multi-ceremonies, it becomes more difficult to step out of it. **While divorce rates may be going up, divorce continues to be a taboo, a practice socially unacceptable. It taints the woman's reputation, and further affects the social status of the family. A home with a woman 'divorcee' is not a lucky place for unmarried woman to visit. A divorced woman is considered 'second hand', a less desirable object.***

These social-cultural norms make it even more difficult for a woman to return back home from unsuccessful marriage. Living in the West makes it even more difficult for the woman to find sympathy among her kin. She will be most 'unwanted' as a 'returnee' which has a very negative connotation. In other words, it means a commodity which has been tested and now is being rejected.

Life among the Kurdish community in the West is not smooth for a divorced woman. First, the community acts like the family and attempts to mediate the relationship and, then, if it is not successful, it is the woman who will be banished. I am aware of a case in Europe where a husband retaliated against his ex-wife by throwing acid on her face.⁵³

⁵³ Mojab, Shahrzad and Hassanpour, Amir (2002), op. cit.

Sheri Laizer describes the upbringing of Kurdish girls and society's expectations of married women:

From early childhood, young Kurdish girls, like girls in other Middle Eastern and Judaeo-Christian societies, are taught to feel ashamed of their bodies and told that a woman must submit to her husband, and must not show too obvious an outward pleasure in the act of physical love (despite the Quran's emphasis that a woman has the right to sexual gratification and that failure of a husband to provide that gratification is sufficient ground for divorce). She is repressed and confused. Often she is neither able, nor permitted, to ask about her body or about sexual matters, nor to express herself freely. She is restricted from learning to experience life and human relationships in their subtlety and complexity in the way that a boy can, lest she be labelled a whore and dishonour the men in her community.

Women are made to feel psychologically inferior because they are not encouraged to be self-reliant, to believe in their own abilities, or to strive for success in some professional or vocational field as a priority over or alternative to marriage. For a woman, marriage ought to be the first priority; a woman's raison d'être. But to defend his own honour and reputation a man may renounce or shame his partner, even in front of the community, with impunity. He can divorce his partner if she fails to live up to his expectations as a virtuous wife, a good mother and housekeeper. He may bring a second wife into the home, or as many as four wives, under Islamic law.

...

For a woman in Kurdish society to remain unmarried is tantamount to being rejected by the community as not good enough, not beautiful enough or too old. 'Too old' can be anything over 25. Worst of all three is to be 'not good enough', morally unfit, a woman of 'experience'. In keeping with the custom of most patriarchal societies, it is unacceptable for a woman to have more than one partner except in the case of the death of a first husband, where it is considered appropriate for a woman to remarry. Even so, many women choose not to do so lest they jeopardise their reputations, and hence their honour.⁵⁴

Sawsan Salim of IWO highlights the dangers for women in divorce, whether they have sought divorce themselves or been divorced by their husbands:

If a woman fleeing honour killing who had left the country was returned, she would be killed, as she would still be seen as bringing shame upon the family. A divorced woman has to go back to her father or brother, or commit suicide. Many women do commit suicide. For example,

⁵⁴ Laizer, Sheri (1996), op. cit., pp 163-164

between January and September 2001 IWO documented 221 cases of female suicide at Suleyman Hospital.

Sobhieh Abdullah Nader, a British citizen who lived in the UK and worked at the Kurdish Information Centre, asked for a divorce from her husband. When she visited family in Kurdistan she was shot at, but survived. One month later, driving with her husband, she was shot again and killed by men with machine guns. Her family had evidence that the husband had planned her murder but he was never charged. He now lives freely in London.

IWO has assisted 4 women originally living in Belgium, the Netherlands, Germany and the UK who feared being sent back to Kurdistan after divorce. In all cases they feared being persecuted or killed by relatives as they would consider that a divorced woman must be at fault and would bring shame on the family.

Even if a woman is working she cannot easily live alone, especially with young children. Her family would not allow it. There is no social provision, no benefits or housing provided for a woman in this situation.⁵⁵

5.2 Economic security

5.2.1 Effects of UN sanctions

All areas of Iraq including the Kurdish-controlled area have been badly hit by the UN-imposed sanctions. Save the Children published a report in January 2002 on household economies and food security in Northern Iraq (Iraqi Kurdistan) in which it warns of a potential humanitarian crisis, partly exacerbated by the effects of the 'Oil for Food' Programme:

The UN sanctions imposed upon the GOI⁵⁶ led to a complete embargo on goods and products entering or leaving Iraq, including oil. The American and British governments additionally strengthened the security of the north, as well as the Shi'ite region in the south of Iraq by establishing 'no-fly zones'.

Northern Iraq found itself under a double embargo: the external blockade controlled by the UN and an internal blockade from the GOI, introduced in 1991. These punitive actions profoundly damaged the northern economy by depriving it of fuel, raw materials, manufactured goods and terminating funding for the government employees, who made up almost half of the workforce.

From 1991-1995 evidence was amassing on the scale of the humanitarian problem in Iraq. In July 1993 the FAO/WFP reported that large numbers of Iraqis had food intakes lower than those of the populations in the disaster stricken African countries.

⁵⁵ Salim, Sawsan (2002), op. cit.

⁵⁶ Government of Iraq

Security Council Resolution

In April 1995 SCR986 was adopted, introducing what is now known as the 'Oil for Food' (OFF) programme. Iraq was initially allowed to sell \$2 billion worth of oil in a six-month period. The North was allocated 13% of the revenues and the Centre/South 54% for the purchase of humanitarian supplies, food and medicine. The SCR986 Programme consists of a universal ration containing wheat-flour, rice, oil, sugar and tea which is distributed by the GOI in the Centre/South and the UN WFP in the North.

...

Most of the very poor live in the households of widows, the disabled and the elderly, living in towns and collectives. They are entirely reliant on the WFP food ration and have virtually no other access to income, with the exception of casual labour and internal gifts from their respective communities.

.....

In addition to the 20% in extreme poverty, 40% of the total population of Northern Iraq is living in poverty. There is a slight increase in income of US \$250 to \$300 ppha. Income is generated from agricultural production, agricultural and casual labour, regular low-paid employment and access to small amounts of often rented land (1 to 4 donums).

CONCLUSIONS:

Most households are extremely vulnerable to external shocks, including unplanned changes in the sanctions system

The poorest population makes up 60% of the total population of Northern Iraq. It is extremely vulnerable to external 'shocks'. These shocks include droughts, price increases, external or internal conflict, and natural disasters. They also include any unplanned changes to the ration system created by UN Security Council Resolution 986. They have little (if any) capacity to expand to other coping strategies and economic activities.

Many poor people are reliant on the economic activity of the richest groups, and are vulnerable to changes in their income.

Approximately 60% of the urban population (the poor and the very poor) rely on the better off wealth group for their income. There is a high level of potential vulnerability for them and by extension the whole community. If there were some kind of shock which reduced the income of the rich, they would tend to rely on their own production and their assets and stop employing others, reducing gifts/zakat etc., which would have a considerable knock-on effect on the poorer wealth groups.

The sanctions and ration regime created by the UN Security Council has undermined and distorted markets and livelihoods and destroyed normal economic life for the vast majority.

Before SCR986, Northern Iraq was able to respond to its extreme isolation by developing an agricultural economy. SCR986, which was implemented in 1997, played havoc with those markets. It crippled the

self-initiative and hindered the promotion of self-reliance of the population.

The rations system instituted by UN Security Council Resolution 986 has created unprecedented levels of dependency.

Sanctions have undoubtedly impoverished the Iraqi population: the SCR986 Programme, however, has not overcome that impoverishment, but rather has raised dependency to internationally unprecedented levels. In the many near-destitute households, up to 90% of food comes from the SCR986 ration.

Poor people could not afford to feed themselves if the SCR986 ration was suddenly removed

If one could put a value on the food portion of the SCR986 ration, using current prices, the monthly ration would cost just below \$20 per family per month. Almost half of the village populations and 65% of the urban populations do not have the ability even to afford the food in the monthly ration. In the worst cases, some households were using 53% of income to buy 7% of food needs – these households could not exist if the ration were taken away. After four and a half years of SCR986 at least half of the population of Iraqi-Kurdistan is so poor that the people would have no way of affording basic food, required for an active and healthy life.

SCR986 rations have destroyed the livelihoods of most people, and diminished their capability to develop new livelihoods

Chronic poverty is embedded and to a certain degree entrenched – methods of support have eroded almost completely. Asset bases that could have been used to support households through periods of economic change and shock were depleted by the impoverishing and comprehensive sanctions system that preceded SCR986. While the SCR986 system has kept people alive, it has undermined the production and market systems necessary for people to grow food to eat or find work to pay for food. The SCR986 embargo on Iraqi trade undermines people's capability to use foreign trade to develop economic self sufficiency.

The SCR986 ration system has facilitated state domination of food supply

Before the Iraqi wars of the 1980s and 1990s, the GOI played a dominant role in Iraqi food markets. Oil profits enhanced the GOI's economic detachment from Iraqi society. Oil profits also allowed the GOI to develop a food distribution system based on subsidised imports, rather than developing local agricultural production and markets. The embargo on Iraq that began in 1990 had a devastating effect on Iraqi nutrition because the population had become accustomed to cheap imported food. But in Northern Iraq, the pre-SCR986 embargo allowed for some development of agricultural production in a fertile mountain zone. SCR986 relief rations have allowed the GOI to reassert its dominance over food systems, and seriously undermined the development of sustainable agriculture in Northern Iraq. Although rations in Kurdistan are distributed by the UN's World Food Programme (WFP), the GOI is responsible for importing most staples and milling flour. That means the GOI is able to control the content of the ration;

*carbohydrate staples and tea and sugar instead of protein – both in Northern Iraq as well as in the south. Fixed rations inhibit the WFP's ability to target rations at vulnerable groups. In Northern Iraq, the ration undermines the agricultural market, and reduces the price of some staples to below production cost, helping to create an internationally unprecedented level of dependency. Dependency rates, and GOI dominance of food systems, are probably even greater in the territory directly administered by the GOI.*⁵⁷

Referring to Iraq as a whole, Sabah Al Mukhtar notes:

Iraq, which was one of the wealthy countries in the world, is now, as a result of the UN embargo, described by the UN as having:

The prevalence of the commonly recognised pre-famine indicators such as exorbitant prices, the collapse of private income, soaring unemployment, drastically reduced food intakes, large scale depletion of personal assets, high morbidity levels, escalating crime rates and rapidly increasing numbers of destitute people.

*More than 70 per cent of the country's population is unemployed; UN agencies confirm that Iraq loses more than 5,000 babies every month; its economy and currency has collapsed; lawyers cannot afford to live; courts have no judges.....parents can no longer send their children to school. Hospitals have no drugs, nurses or equipment.*⁵⁸

5.2.2 Vulnerability of women without male relatives

Sheri Laizer describes the situation of the so-called Barzani widows, women whose husbands and sons, members of the Barzani tribe, were among the 8,000 men forcibly removed from the camps where the community had been sent by Saddam Hussein in 1978. The Iraqi government has never provided an official account of the fate of these men and boys. **To the immeasurable trauma of the 'disappearances' has been added the difficulties of surviving as unsupported women. This account demonstrates attitudes and structures which would add to the vulnerability of any female-headed household:**

Left without men to work for them, the widows' economic circumstances are extremely harsh, as the men customarily bring in the income. These women and their unmarried daughters are sometimes exploited by outsiders. Some have been forced into prostitution in the towns near their camps to obtain the money to survive. Those who fall pregnant find themselves in a desperate situation. Morally ostracised,

⁵⁷ Save the Children (2002), *Understanding Kurdish Livelihoods in Northern Iraq: Final Report*, available at

http://www.savethechildren.org.uk/pressrels/PDFS/Kurdish_Livelihoods.pdf

⁵⁸ Al Mukhtar, Sabah, 'The Rule of Law in Iraq: Does It Exist?' in Cotran, Eugene & Yamani, Mai (eds.) (2000), *The Rule of Law in the Middle East and the Islamic World: Human Rights and the Judicial Process*, London, I.B. Tauris, p 80

they are viewed as having brought further shame and suffering upon the extended community. With a bankrupt Kurdistan, mass unemployment and no social security system, it is no small matter to provide for thousands of Barzani widows.

Barzan women living in Qushtapa camp, Arbil, who had suffered the consequences of having relationships with men outside the tribe, or outside marriage, told one correspondent in summer 1993: 'Many women believe that in such circumstances killing is the only way to purge what they call 'unclean hearts'. A doctor working in Qushtapa says he knows of at least twenty such incidents in the past few years.' ***Women are still being murdered by their families for 'sexual impropriety'. Females are not permitted by the society to stray into compromising relations.***⁵⁹

5.3 Access to health services

The World Health Organisation has been involved in rebuilding health services including water treatment, training of professionals, distribution of drugs and building new hospitals in Iraqi Kurdistan after the decimation of years of war. A report in 2000 in which they planned to review the health needs of the region noted for example:

Sulaimaniyah city (population approximately 700,000) has a number of hospitals, including teaching, general, paediatric and maternity hospitals, and almost 1000 beds. But these facilities are fragmented and have suffered substantial damage and neglect over the years of conflict.

...

The majority of nurses in the Northern Governorates currently function at a very low level, partly due to lack of human and material resources for training, but also because there is little respect or appreciation of what nursing means for patient care.

*Often, say nursing tutors, higher standard students are prevented from using what they have learned since there is no difference in the job descriptions of nurses with intermediate or preparatory [training] who are less able and those with institute or higher level training.*⁶⁰

The International Committee of the Red Cross and Red Crescent Societies noted in its 2001 report:

In Iraq, the ICRC continued to focus its attention on the problems in humanitarian terms still outstanding after two international conflicts, now aggravated by 11 years of trade sanctions. Assistance programmes continued to rehabilitate infrastructure in the areas of water and sanitation, primary health care, prosthetics/

⁵⁹ Laizer, Sheri (1996), op. cit., pp 166-167

⁶⁰ World Health Organisation (2000), *Health Update Iraq*, 24 November 2000, available at <http://www.who.int/disasters/repo/628.doc>

orthotics, and psychiatry...

*The ICRC's position regarding the impact of the economic sanctions remained unchanged. The mechanisms set up to alleviate hardship, such as the oil-for-food programme, and the work of humanitarian organizations have had a favourable effect, but are nowhere near enough to enable the Iraqi civilian population to cope with their daily problems.*⁶¹

In a separate report on their work in 2000-2001, ICRC noted that

*The ICRC's goal in northern Iraq is that internally displaced persons and rural communities in particular should have access to water and benefit from sanitary conditions in accordance with WHO standards. The focus is therefore on basic infrastructure such as water-supply systems and sewage-evacuation networks requiring either maintenance work or emergency repairs. An important criterion for new projects in 2001 will be, apart from the humanitarian needs, that for some reason they cannot be carried out under the oil-for-food programme.*⁶²

⁶¹ International Committee of Red Cross and Red Crescent Societies (ICRC) (2002), *Annual Report 2001*, available at <http://www.icrc.org/Web/eng/siteeng0.nsf/html/5CJAS8!Open>

⁶² ICRC, *ICRC activities on behalf of Iraqi civilians 2000-2001*, available at http://www.icrc.org/Web/eng/siteeng0.nsf/html/57JR3C?OpenDocument&style=custo_final

6. Case law

6.1 United Kingdom

There appear to be no recent cases at Tribunal level involving women from Iraqi Kurdistan. However a male applicant fleeing honour killing recently won his asylum appeal **before the Adjudicator**, as follows:

Rashid v. SSHD, Appeal No. HX/03907/2002

The appellant fled persecution in the Kurdish Autonomous Area of Iraq by the Islamic Movement of Iraqi Kurdistan (IMIK), the Democratic Party of Kurdistan (KDP) and the Patriotic Union of Kurdistan (PUK). He was being persecuted because of his relationship with his girlfriend. His girlfriend's family did not accept the marriage proposal from him and told his Uncle Baker that she had been promised to someone else. The appellant's girlfriend was a member of the Sehany tribe, which is a powerful tribe within Kurdish Iraq. Sewa was then married to a man who had been chosen for her by her family. The appellant stated that around a week after her marriage he visited her in her home and was caught there by her husband. As a direct result of this Sewa was murdered.

Mr. Rashid's representative argued that the appellant's fear of persecution was from IMIK and the relatives of his former girlfriend. This is regarded as an honour killing and there is no willingness or ability by any authorities in the Kurdish Autonomous Areas to give protection to the appellant in these circumstances.

The adjudicator noted:

The fact that the appellant's girlfriend Sewa has been murdered throws a great deal of light on this appellant's claim. In fact this appellant will be murdered for his perceived adultery and/or adulterous relationship with his deceased girlfriend. In this respect the appellant is a member of a particular social group. That is adulterers within the Kurdish Autonomous Area. Not only will he not be afforded protection by the authorities but, as can be seen from his evidence, the authorities are likely to actively help those intending to kill him.

Both the appellant's asylum and human rights claims were allowed.⁶³

Issue of possibility of returns to Iraqi Kurdistan

The Home Office does not currently have any means of returning failed applicants. A recent case before the High Court adds further information on the issue:

In Hwez and Khadir [2002] EWHC 1597 (Admin), Crane J has given Iraqi Kurds seeking Exceptional Leave to Enter/Remain in the United Kingdom despite losing appeals before the Immigration Appellate Authority the means

⁶³ Rashid v. SSHD, Appeal No. HX/03907/2002, Adjudicator Mr P. R de Haney, 20 March 2002, summary RWRP

to challenge Home Office decision-making that leaves them in an unacceptable limbo. Mr Hwez is still in the appeal system and the High Court decided that he should see that through before inviting the Home Office to consider his position outside of the Rules. Mr Khadir, however, is at the end of the line. He asked for ELE and this was refused in May 2002. The High Court quashed that decision, and the Home Office must reconsider Mr Khadir's request.

The heart of the issue is the current impossibility of returning anyone to the Kurdish Autonomous Area; the part of Northern Iraq under the control of Kurdish parties (principally the PUK and KDP). It is accepted that it is unsafe to send Kurds to any other area of Iraq. The Home Office says it is 'exploring options' but it has been saying this for well over a year, and there is no indication that such explorations are getting anywhere. As Crane J notes in his judgment, end of line Iraqi Kurds are eligible for hard cases support, which is only suitable for a temporary situation. Since the Home Office can give no indication of whether, still less when, it may be possible to return Iraqi Kurds, it is not appropriate to describe the situation as temporary.

It may be that the Home Office have information that demonstrates safe returns, forced or voluntary, are or will become possible. If that is so, Mr Khadir will doubtless be refused ELE. If not, unless the Home Office seek to overturn Crane J's judgment, Iraqi Kurds at the end of the line should be granted ELE/R until such time as the Home Office find a means to return them to the KAA. Also, those still in the appeal system may benefit from his indication that "*in view of the lapse of time*" consideration should be given to granting Mr Hwez permission to work.⁶⁴

Azad Gardi v. SSHD [2002] EWCA Civ 750

This case, that of an Iraqi Kurd who had lived in the Kurdish Autonomous Region (KAR), did not succeed on its facts; however the Court of Appeal questioned the idea that the KDP and the PUK could be perceived as a state, offering an alternative to state protection. They clearly distinguished the KDP and PUK from UNMIK and K-FOR in Kosovo. Lord Justice Keene stated that had it been necessary to decide the 'protection test' issue i.e. whether the appellant was unable or unwilling to avail himself "of the protection of that country" which was a reference to the earlier phrase "the country of his nationality", he would have been inclined to find in favour of the appellant. This was because KAR, unlike the UNMIK regime in Kosovo, did not meet the recognised criterion that the protection had to be that of an entity which was capable of granting nationality to a person in a form recognised internationally, as emphasised by Professor Hathaway and Foster.⁶⁵

⁶⁴ Note by Steve Symonds, Asylum Aid

⁶⁵ Azad Gardi v. SSHD [2002] EWCA Civ 750, Court of Appeal, Lord Justice Ward, Lord Justice Keane and Sir Martin Nourse, 24 May 2002, summarised from Immigration Law Update, Vol 5 No 12, 17 June 2002, Immigration Advisory Service

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Appendix A

Home Office Country Assessment: Iraq, April 2002

Women

5.60 The Government states that it is committed to equality for women, who make up approximately 20 percent of the work force. It has enacted laws to protect women from exploitation in the workplace and from sexual harassment; to permit women to join the regular army, Popular Army, and police forces; and to equalise women's rights in divorce, land ownership, taxation, and suffrage. It is difficult to determine the extent to which these protections are afforded in practice. Women are not allowed to travel outside the country alone.[2f]

5.61 The Iraqi Government has stated that women constitute 48.7 per cent of Iraq's total population, and that like all other Iraqi citizens, have suffered the adverse effects of the embargo in the form of a drop in income, rapidly escalating prices and a sinking level of food and health security. The Government claims that it is committed to equality for women, who make up about 20 percent of the work force. It has enacted laws to protect women from exploitation in the workplace and from sexual harassment; to permit women to join the regular army, Popular Army, and police forces; to require education for girls; and to equalise women's rights in divorce, land ownership, taxation, and suffrage. It is difficult to determine to what extent these protections are afforded in practice. However, reports indicate that the application of these laws has declined as Iraq's political and economic crisis persists. A large number of Iraqi women have been forced to abandon working life by resigning or retiring from jobs and are denied the opportunity to participate in public life. [2c][16][17]

5.62 The Iraqi Government has also claimed the embargo has an adverse impact on women's physical and mental health with a shortage of food, medicines and essential humanitarian needs. It has been claimed that 73 per cent of women suffered from anaemia and the maternal mortality rate had risen from 36 per 1,000 to 120 per 1,000. [16][17]

5.63 Although the Government has stated that women have suffered because of the embargo, the Special Rapporteur, human rights organisations, and opposition groups continued to receive numerous reports of women suffering severe psychological trauma after they were raped in custody. The security forces allegedly raped women captured during the Anfal campaign and during the occupation of Kuwait. The Government has never acknowledged these reports of rape or conducted any investigation. Although the Government made a variety of announcements against rape and other violent crimes throughout 1997, it took no action against those who committed this abuse. [2b]

5.64 The Special Rapporteur also noted that there is an unusually high percentage of women in the Kurdish areas, caused by the disappearances of tens of thousands of Kurdish men during the Anfal Campaign. The Special Rapporteur reported that the widows, daughters, and mothers of the Anfal Campaign victims are economically dependent on their relatives or villages because they may not inherit the property or assets of their missing family members. [2c]

5.65 Domestic violence against women occurs but little is known about its extent. Such abuse customarily is addressed within the tightly knit family structure. There is no public discussion of the subject, and no statistics are published. Spousal violence constitutes grounds for divorce and criminal charges; however, suits brought on these charges are believed to be rare. Men who kill female family members for "immoral deeds" may receive immunity from prosecution for such "honour crimes" under a 1990 law. [2d] There are widespread reports of an increase in honour killings throughout northern Iraq [24]. However, the PUK declared in April 2000 that "honour crime" immunity would not apply in the area under its control.[2e]

5.66 On 22 June 1999 the Iraq Revolutionary Council issued Decree 101 banning the detention of women accused of manslaughter during the investigation and trial stages until a decision or sentence is issued in the case. Based on paragraph (A) of section 42 of the Constitution, the revolutionary council decreed the following;

1. *It shall be impermissible to detain women accused of manslaughter during the investigation and trial stages until a decision or sentence is issued in the case.*
2. *The victim's hospitalisation or death because of attempted manslaughter shall not prevent the release of the accused on bail during the investigation or trial of the case until a decision or sentence is issued in the case.* [3m]

5.67 In October 2000 security forces reportedly beheaded a number of women suspected of prostitution and some men suspected of facilitating or covering up such activities. Security agents reportedly decapitated numerous women and men in front of their family members. The victim's heads were displayed in front of their homes for several days. Thirty of the victims' names reportedly were published, including three doctors and one medical assistant.[2e]

5.68 Rape is prohibited by law; however, security forces rape family members of persons in the opposition as a punishment. No information is available regarding the frequency or severity of rape in society.[2f]

5.69 In April 2000, the PUK declared that immunity would not be given for honour crimes in the area under its control. Several active women's organisations operate in the Kurd-controlled regions in the north. In September the KDP began admitting women into the police academy in preparation for the planned integration of women into the police force.[2f]

5.70 Looking for differences in the situation of women between northern Iraq and the Government controlled areas, it is more common for women living in rural areas to fall victim to ill-treatment and honour killings, while this is less a concern in big cities, like Baghdad and its surroundings. In northern Iraq Sulaymaniyah people are known to be quite liberal whereas the Arbil and Dohuk regions are very conservative areas. [26][35]⁶⁶

⁶⁶ Country Information and Policy Unit (2002), op. cit.

